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SENATE BILL 228

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Phil A. Griego

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO GAMES OF CHANCE; REPEALING THE BINGO AND RAFFLE
ACT; ENACTING THE NEW MEXICO BINGO AND RAFFLE ACT; REGULATING
CERTAIN GAMES OF CHANCE; REQUIRING LICENSES AND PERMITS;
PROVIDING CIVIL AND CRIMINAL PENALTIES; IMPOSING TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 26 of this act may be cited as the "New Mexico Bingo
and Raffle Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the
New Mexico Bingo and Raffle Act is to authorize and regulate
certain games of chance by licensed nonprofit organizations.

Section 3. [NEW MATERIAL] GAMING CONTROL BOARD TO
ADMINISTER ACT.--The gaming control board shall implement the
state's policy on games of chance consistent with the

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1 provisions of the New Mexico Bingo and Raffle Act. It shall
2 fulfill all duties assigned to it pursuant to the New Mexico
3 Bingo and Raffle Act, and it shall have the authority necessary
4 to carry out those duties.

5 Section 4. [NEW MATERIAL] DEFINITIONS.--As used in the
6 New Mexico Bingo and Raffle Act:

7 A. "bingo" means a game of chance in which each
8 player has one or more bingo cards printed with different
9 numbers on which to place markers when the respective numbers
10 are drawn and announced by a bingo caller;

11 B. "bingo caller" means the individual who, in the
12 game of bingo, draws and announces numbers;

13 C. "bingo employee" means a person connected
14 directly with a game of chance but does not include nongaming
15 personnel such as bartenders, cocktail servers or other persons
16 engaged solely in preparing or serving food or beverages;
17 secretarial or janitorial personnel; or stage, sound and light
18 technicians;

19 D. "bingo manager" means the person responsible for
20 overseeing bingo and pull-tab activities conducted pursuant to
21 a bingo license;

22 E. "board" means the gaming control board;

23 F. "charitable organization" means an organization,
24 not for pecuniary profit, that is operated for the relief of
25 poverty, distress or other condition of public concern in New

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1 Mexico and that has been granted an exemption from federal
2 income tax as an organization described in Section 501(c) of
3 the United States Internal Revenue Code of 1986, as amended or
4 renumbered;

5 G. "chartered branch, lodge or chapter of a
6 national or state organization" means a branch, lodge or
7 chapter that is a civic or service organization, not for
8 pecuniary profit, and that is authorized by its written
9 constitution, charter, articles of incorporation or bylaws to
10 engage in a fraternal, civic or service purpose in New Mexico;

11 H. "commercial lessor" means a third party that
12 leases space to a licensed organization to conduct bingo,
13 raffle or pull-tab games;

14 I. "distributor" means a person, other than a
15 manufacturer, who provides equipment to a qualified
16 organization but does not manufacture the equipment;

17 J. "educational organization" means an organization
18 within the state, not organized for pecuniary profit, whose
19 primary purpose is educational in nature and designed to
20 develop the capabilities of individuals by instruction;

21 K. "environmental organization" means an
22 organization within the state, not organized for pecuniary
23 profit, that is primarily concerned with the protection and
24 preservation of the natural environment;

25 L. "equipment" means:

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- 1 (1) with respect to bingo:
2 (a) the receptacle and numbered objects
3 drawn from it;
4 (b) the master board upon which the
5 numbered objects are placed as drawn;
6 (c) the cards or sheets bearing numbers
7 or other designations to be covered and the objects used to
8 cover them;
9 (d) the board or signs, however
10 operated, used to announce or display the numbers or
11 designations as they are drawn;
12 (e) bingo card minders; and
13 (f) all other articles having a
14 significant effect on the outcome of a game and necessary to
15 the operation, conduct and playing of bingo; and

16 (2) with respect to pull-tabs:

- 17 (a) the pull-tabs;
18 (b) the pull-tab flares; and
19 (c) the dispensing machines;

20 M. "fraternal organization" means an organization
21 within the state, except college and high school fraternities,
22 not for pecuniary profit, that is a branch, lodge or chapter of
23 a national or state organization and that exists for the common
24 business, brotherhood or other interests of its members;

25 N. "game accountant" means the individual in charge

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1 of preparing and submitting the quarterly report form;

2 O. "game of chance" means that specific kind of
3 game of chance commonly known as bingo, that specific kind of
4 game of chance commonly known as a raffle or that specific game
5 of chance commonly known as pull-tab;

6 P. "gross receipts" means proceeds from the sale of
7 bingo cards, raffle tickets or pull-tab tickets; the sale of
8 rights in any manner connected with participation in a game of
9 chance or the right to participate in a game of chance,
10 including any admission fee or charge; the sale of equipment or
11 supplies; and all other miscellaneous receipts;

12 Q. "lawful purposes" means:

13 (1) educational, charitable, patriotic,
14 religious or public-spirited purposes that benefit an
15 indefinite number of persons either by bringing their minds or
16 hearts under the influence of education or religion, by
17 relieving their bodies from disease, suffering or constraint,
18 by assisting them in establishing themselves in life, by
19 erecting or maintaining public buildings or works, by providing
20 legal assistance to peace officers or firefighters in defending
21 civil or criminal actions arising out of the performance of
22 their duties or by otherwise lessening the burden of
23 government. "Lawful purposes", includes the erection,
24 acquisition, improvement, maintenance, insurance or repair of
25 property, real, personal or mixed, if the property is used for

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1 one or more of the benefits stated in this paragraph; or

2 (2) augmenting the revenue of and promoting
3 the New Mexico state fair;

4 R. "licensee" means any qualified organization to
5 which a license has been issued by the board;

6 S. "manufacturer" means a person who manufactures,
7 fabricates, assembles, produces, programs or makes
8 modifications to equipment for use or play in games of chance
9 in New Mexico or for sale or distribution outside of New
10 Mexico;

11 T. "occasion" means a single gathering at which a
12 series of successive bingo games are played;

13 U. "permittee" means any person issued a permit by
14 the board;

15 V. "premises" means a room, hall, enclosure or
16 outdoor area that is identified on a license issued pursuant to
17 the New Mexico Bingo and Raffle Act and used for the purpose of
18 playing games of bingo or pull-tabs;

19 W. "pull-tab" means gaming pieces used in a game of
20 chance that are made completely of paper or paper products with
21 concealed numbers or symbols that must be exposed by the player
22 to determine wins or losses or a gaming piece that is made
23 completely of paper or paper products with an instant-win
24 component that must be exposed by the player on a concealed
25 card limited to five or fewer numbers or symbols and can be

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1 used in a speed round for additional winnings utilizing a bingo
2 blower. A "pull-tab" includes a tip board;

3 X. "qualified organization" means a bona fide
4 chartered branch, lodge or chapter of a national or state
5 organization or any bona fide religious, charitable,
6 environmental, fraternal, educational or veterans' organization
7 operating without profit to its members that has been in
8 existence in New Mexico continuously for a period of three
9 years immediately prior to conducting a raffle or making an
10 application for a license under the New Mexico Bingo and Raffle
11 Act and that has had, during the entire three-year period, a
12 dues-paying membership engaged in carrying out the objects of
13 the corporation or organization. A voluntary firefighter's
14 organization is a qualified organization and a labor
15 organization is a qualified organization for the purposes of
16 the New Mexico Bingo and Raffle Act if they use the proceeds
17 from a game of chance solely for scholarship or charitable
18 purposes;

19 Y. "raffle" means a drawing where multiple persons
20 buy tickets to win a prize and the winner is determined by the
21 drawing of the ticket stub out of a container that holds all
22 the ticket stubs sold for the event;

23 Z. "religious organization" means an organization,
24 church, body of communicants or group, not for pecuniary
25 profit, gathered in common membership for mutual support and

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1 edification in piety, worship and religious observances or a
2 society, not for pecuniary profit, of individuals united for
3 religious purposes at a definite place; and

4 AA. "veterans' organization" means an organization
5 within the state or any branch, lodge or chapter of a national
6 or state organization within this state, not for pecuniary
7 profit, the membership of which consists of individuals who
8 were members of the armed services or forces of the United
9 States.

10 Section 5. [NEW MATERIAL] APPLICATION OF ACT.--The New
11 Mexico Bingo and Raffle Act applies to:

12 A. unless exempted pursuant to Section 26 of that
13 act, qualified organizations that conduct games of chance and
14 the games of chance conducted by the qualified organizations;

15 B. persons who provide equipment to qualified
16 organizations for use or play of games of chance in New Mexico;

17 C. persons who manufacture, fabricate, assemble,
18 produce, program or make modifications to equipment for use or
19 play of games of chance in New Mexico or for sale or
20 distribution outside of New Mexico; and

21 D. persons who lease or rent premises for a fee to
22 licensees for the primary purpose of conducting a game of bingo
23 or pull-tabs in New Mexico.

24 Section 6. [NEW MATERIAL] BOARD--POWERS.--The board may:

25 A. grant, deny, suspend, condition or revoke

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1 licenses or permits issued pursuant to the New Mexico Bingo and
2 Raffle Act, establish the terms for each classification of
3 license to be issued pursuant to that act and set fees for
4 submitting an application for a license;

5 B. compel the production of documents, books and
6 tangible items, including documents showing the receipts and
7 disbursements of a licensee;

8 C. investigate the operations of a licensee and
9 place a designated representative on the premises for the
10 purpose of observing compliance with the New Mexico Bingo and
11 Raffle Act and rules or orders of the board;

12 D. summon witnesses;

13 E. take testimony under oath for the effective
14 discharge of the board's authority;

15 F. appoint a hearing officer to conduct hearings
16 required by the New Mexico Bingo and Raffle Act or rules
17 adopted pursuant to that act;

18 G. make rules to hold, conduct and operate all
19 games of chance held in the state except those specifically
20 exempted under the New Mexico Bingo and Raffle Act;

21 H. adopt rules to implement the New Mexico Bingo
22 and Raffle Act and to ensure that games of chance conducted in
23 New Mexico are conducted with fairness and that the
24 participants and patrons are protected against illegal
25 practices on any premises;

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- 1 I. determine qualifications for licensees;
2 J. establish a system of standard operating
3 procedures for licensees;
4 K. adopt rules establishing a system of licensing
5 and governing commercial lessors, distributors, manufacturers
6 and qualified organizations;
7 L. adopt rules establishing a system of permits for
8 individuals designated as bingo managers, bingo callers and
9 such other bingo employees as the board requires;
10 M. require a statement under oath by the applicant
11 for a license to be issued pursuant to the New Mexico Bingo and
12 Raffle Act that the information on the application is true;
13 N. supervise and oversee any games of chance being
14 conducted;
15 O. make on-site inspections of premises where games
16 of chance are being held;
17 P. monitor and oversee all equipment used for games
18 of chance;
19 Q. regulate the monetary value of prizes to be
20 awarded for games of chance;
21 R. require disclosure of information sufficient to
22 make a determination of the suitability of an applicant for a
23 license or permit to be issued pursuant to the New Mexico Bingo
24 and Raffle Act;
25 S. adopt and enforce all rules necessary to

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1 implement and administer the provisions of the New Mexico Bingo
2 and Raffle Act; and

3 T. provide an annual report to the governor
4 regarding the board's administration of the New Mexico Bingo
5 and Raffle Act.

6 Section 7. [NEW MATERIAL] ORGANIZATIONS ELIGIBLE FOR
7 BINGO LICENSES.--

8 A. Any qualified organization is eligible to apply
9 for a bingo license to be issued by the board under the New
10 Mexico Bingo and Raffle Act.

11 B. The New Mexico state fair:

12 (1) may apply to the board for and shall be
13 issued a bingo license pursuant to the New Mexico Bingo and
14 Raffle Act to conduct games of chance on the grounds of the New
15 Mexico state fair during the state fair; and

16 (2) shall pay a licensing fee to the board of
17 one hundred dollars (\$100) per calendar year at the time of
18 application for or renewal of a license issued pursuant to the
19 New Mexico Bingo and Raffle Act.

20 C. A qualified organization may conduct a raffle on
21 the grounds of the New Mexico state fair during the state fair
22 only after obtaining express prior approval of the state fair
23 commission and the board.

24 Section 8. [NEW MATERIAL] CLASSIFICATIONS OF LICENSES AND
25 PERMITS.--

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1 A. The board shall establish and may issue the
2 following categories of licenses:

- 3 (1) bingo license;
- 4 (2) distributor's license;
- 5 (3) manufacturer's license; and
- 6 (4) commercial lessor's license.

7 B. The board shall establish and may issue permits
8 for the following employees:

- 9 (1) bingo manager;
- 10 (2) bingo caller; and
- 11 (3) any other bingo employee position for

12 which the board, by rule, requires a permit.

13 Section 9. [NEW MATERIAL] DISCLOSURE OF BACKGROUND
14 INFORMATION.--

15 A. The board may require an applicant for a license
16 or permit to be issued pursuant to the New Mexico Bingo and
17 Raffle Act to disclose information sufficient for the board to
18 make a determination as to the applicant's suitability. The
19 board may adopt rules to coordinate the manner in which the
20 information is produced.

21 B. An applicant shall provide all of the
22 information required by the board.

23 C. The cost of a background investigation, not to
24 exceed one hundred dollars (\$100), shall be paid by the
25 applicant.

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1 Section 10. ~~[NEW MATERIAL]~~ APPLICATION FOR LICENSES OR
2 PERMITS.--

3 A. Each applicant for a license or permit to be
4 issued under the New Mexico Bingo and Raffle Act shall file
5 with the board a written application in the form prescribed by
6 the board, duly executed and verified and containing:

7 (1) the name and address of the applicant;

8 (2) if not an individual, sufficient facts
9 relating to its incorporation or organization to enable the
10 board to determine whether or not the applicant is qualified
11 and the names and addresses of its officers, members of the
12 board of directors and managers;

13 (3) such other information deemed necessary by
14 the board to ensure that the applicant complies with the
15 provisions of the New Mexico Bingo and Raffle Act and rules
16 adopted pursuant to that act; and

17 (4) an affirmation signed by the applicant or
18 the applicant's agent that the information contained in the
19 application is true and accurate. The application shall be
20 signed by the applicant or the applicant's agent, and the
21 signature shall be notarized.

22 B. In addition to the requirements of Subsection A
23 of this section, each applicant for a bingo license shall
24 provide the board with the following:

25 (1) the names of the bingo manager, the bingo

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1 caller and the game accountant, and a statement from those
2 persons that they shall be responsible for the holding,
3 operation and conduct of games of chance in accordance with the
4 terms of the license and the provisions of the New Mexico Bingo
5 and Raffle Act;

6 (2) sufficient facts relating to the
7 organization to enable the board to determine whether or not it
8 is a qualified organization;

9 (3) the exact location at which the applicant
10 will conduct bingo and pull-tabs;

11 (4) the specific kind of games of chance
12 intended to be conducted; and

13 (5) whether the premises are owned or leased
14 and, if leased, the name and address of the fee owner of the
15 land or, if the owner is a corporation, the names of the
16 directors and members of the board of directors.

17 C. The failure to accurately and truthfully provide
18 the information required in Subsection A or B of this section
19 is a violation of the New Mexico Bingo and Raffle Act and shall
20 subject the applicant to the provisions of Sections 14, 23 and
21 25 of that act.

22 Section 11. [NEW MATERIAL] STANDARDS FOR GRANTING A
23 LICENSE OR PERMIT.--

24 A. A license or permit issued pursuant to the New
25 Mexico Bingo and Raffle Act shall not be issued or renewed

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1 unless the applicant has satisfied the board that the applicant
2 or, if the applicant is a corporation, each officer and
3 director of the applicant:

4 (1) is of good moral character, is honest and
5 has integrity;

6 (2) does not have prior activities, a criminal
7 record, a reputation, habits or associations that:

8 (a) pose a threat to the public
9 interest;

10 (b) pose a threat to the effective
11 regulation and control of games of chance or the effective
12 regulation of the manufacturing or distributing of equipment;
13 or

14 (c) create or enhance the dangers of
15 unsuitable, unfair or illegal practices, methods and activities
16 in the conduct of games of chance; and

17 (3) is qualified to be licensed or permitted
18 pursuant to the New Mexico Bingo and Raffle Act.

19 B. The board may establish by rule additional
20 qualifications for a licensee or permittee as it deems in the
21 public interest.

22 C. An applicant for a license or permit to be
23 issued pursuant to the New Mexico Bingo and Raffle Act who is
24 denied the license or permit by the board shall have an
25 opportunity to challenge the validity of the record on which

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1 the denial of the license or permit was based.

2 Section 12. [NEW MATERIAL] LICENSES AND PERMITS--SPECIFIC
3 REQUIREMENTS.--

4 A. A license issued pursuant to the New Mexico
5 Bingo and Raffle Act shall expire annually but may be renewed
6 for successive one-year terms.

7 B. A permit issued pursuant to the New Mexico Bingo
8 and Raffle Act shall be valid for three years from the date of
9 issuance and may be renewed by the board at the end of that
10 term.

11 C. A license or permit or a renewal of a license or
12 permit is not transferable.

13 Section 13. [NEW MATERIAL] FEES FOR LICENSES AND
14 PERMITS.--Fees for licenses and permits issued pursuant to the
15 New Mexico Bingo and Raffle Act shall be established by board
16 rule but shall not exceed the following amounts:

17 A. bingo license, two hundred fifty dollars (\$250)
18 for the initial license and two hundred fifty dollars (\$250)
19 for each renewal;

20 B. manufacturer's license, one thousand dollars
21 (\$1,000) for the initial license and one thousand dollars
22 (\$1,000) for each renewal;

23 C. distributor's license, one thousand dollars
24 (\$1,000) for the initial license and one thousand dollars
25 (\$1,000) for each renewal;

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1 D. commercial lessor's license, one thousand
2 dollars (\$1,000) for the initial license and one thousand
3 dollars (\$1,000) for each renewal; and

4 E. permit, seventy-five dollars (\$75.00) for the
5 initial permit and seventy-five dollars (\$75.00) for each
6 renewal.

7 Section 14. [NEW MATERIAL] FORFEITURE OF LICENSE--
8 INELIGIBILITY TO APPLY FOR LICENSE OR PERMIT.--Any person who
9 makes a material false statement in an application for a
10 license or permit to be issued pursuant to the New Mexico Bingo
11 and Raffle Act or in any statement submitted with the
12 application, fails to keep sufficient books and records to
13 substantiate the quarterly reports required under Section 18 of
14 the New Mexico Bingo and Raffle Act, falsifies any books or
15 records insofar as they relate to a transaction connected with
16 the holding, operating and conducting of a game of chance under
17 any such license or permit or violates any of the provisions of
18 the New Mexico Bingo and Raffle Act or of any term of the
19 license or permit, in addition to any other criminal or civil
20 penalties that may be imposed, may, at the option of the board,
21 be required to forfeit any license issued under that act and be
22 ineligible to apply for a license under that act for at least
23 one year thereafter.

24 Section 15. [NEW MATERIAL] PERSONS PERMITTED TO CONDUCT
25 BINGO AND PULL-TAB GAMES--PREMISES.--

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1 A. The officers of a bingo licensee shall designate
2 a bingo manager to be in charge and primarily responsible for
3 the conduct of all games of bingo and pull-tabs. The bingo
4 manager shall supervise all activities on the occasion for
5 which the bingo manager is in charge. The bingo manager shall
6 be familiar with the provisions of the state laws, the rules of
7 the board and the provisions of the bingo license. The bingo
8 manager shall be present on the premises continuously during
9 the games and for a period of at least thirty minutes after the
10 last game.

11 B. The officers of a bingo licensee shall designate
12 a game accountant to be primarily responsible for the proper
13 preparation of the quarterly reports in accordance the New
14 Mexico Bingo and Raffle Act.

15 C. For a bingo game, the officers of a bingo
16 licensee shall designate a bingo caller to be responsible for
17 drawing and announcing the bingo numbers.

18 D. The premises where any game of chance is being
19 held, operated or conducted or where it is intended that any
20 equipment be used shall at all times be open to inspection by
21 the board and its agents and employees and by peace officers of
22 the state or any political subdivision of the state.

23 E. No commercial lessor, owner or co-owner of the
24 premises or, if a corporation is the owner of the premises, any
25 officer, director or stockholder owning more than ten percent

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1 of the outstanding stock shall be designated as a bingo
2 manager, a game accountant or a bingo caller.

3 Section 16. [NEW MATERIAL] DISPLAY OF LICENSE.--Each
4 license issued pursuant to the New Mexico Bingo and Raffle Act
5 shall contain a statement of the name and address of the
6 licensee, date of issuance and date of expiration. Any such
7 license issued for the conduct of any games of bingo or
8 pull-tab shall be conspicuously displayed at the place where
9 the games are to be conducted.

10 Section 17. [NEW MATERIAL] EQUIPMENT.--

11 A. No bingo or pull-tab game shall be conducted
12 with any equipment except that which is purchased or leased
13 from a commercial lessor, licensed distributor or manufacturer
14 or another bingo licensee.

15 B. The equipment used in the playing of a bingo or
16 pull-tab game and the method of play shall be such that each
17 bingo card or pull-tab has an equal opportunity to be a winner.
18 The objects or balls to be drawn shall be essentially the same
19 as to size, shape, weight, balance and all other
20 characteristics that may influence their selection.

21 C. Electronic bingo machines and video pull-tabs
22 are not authorized for use on the premises. However,
23 electronic hand-held bingo units, commonly called bingo card
24 minders, are authorized.

25 Section 18. [NEW MATERIAL] CONDUCT OF GAMES OF CHANCE.--

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1 A. For games of bingo:

2 (1) a bingo licensee may hold, operate or
3 conduct no more than two hundred sixty occasions in any
4 twelve-month period;

5 (2) occasions shall not be conducted more than
6 six times in any one calendar week, with no occasion lasting
7 more than four hours and not more than three occasions
8 conducted in one calendar day by any one licensee;

9 (3) when any merchandise prize is awarded in a
10 bingo game, its value shall be its current retail price. No
11 merchandise prize shall be redeemable or convertible into cash;

12 (4) the aggregate amount of all prizes offered
13 or given in all bingo games played on a single occasion shall
14 not exceed four thousand dollars (\$4,000);

15 (5) all objects or balls to be used in a game
16 shall be present in the receptacle before the game is begun.

17 All numbers announced shall be plainly and clearly audible to
18 all the players present. Where more than one room is used for
19 any one game, the receptacle and the bingo caller shall be
20 present in the room where the greatest number of players are
21 present, and all numbers announced shall be plainly audible to
22 the players in that room and also audible to the players in the
23 other rooms;

24 (6) the receptacle and the bingo caller who
25 removes the objects or balls from the receptacle shall be

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1 visible to all the players at all times except where more than
2 one room is used for any one game, in which case the provisions
3 of Paragraph (5) of this subsection shall prevail;

4 (7) the particular arrangement of numbers
5 required to be covered in order to win the game and the amount
6 of the prize shall be clearly and audibly described and
7 announced to the players immediately before each game is begun;

8 (8) any player is entitled to call for a
9 verification of all numbers drawn at the time a winner is
10 determined and for a verification of the objects or balls
11 remaining in the receptacle and not yet drawn. The
12 verification shall be made in the immediate presence of the
13 bingo manager; and

14 (9) no person who is not physically present on
15 the premises where the game is actually conducted shall be
16 allowed to participate as a player in the game.

17 B. For a raffle:

18 (1) all raffle tickets sold shall be
19 represented in the container from which the winner is drawn;

20 (2) the drawing shall be open to the public;

21 (3) each raffle ticket shall display all
22 information as directed by the board; and

23 (4) when any merchandise prize is awarded in a
24 raffle, its value shall be its current retail price. No
25 merchandise prize shall be redeemable or convertible into cash.

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- 1 C. For games of pull-tabs:
- 2 (1) pull-tabs shall be sold only on the
- 3 premises;
- 4 (2) winners shall be paid only on the
- 5 premises; and
- 6 (3) when any merchandise prize is awarded in a
- 7 pull-tab game, its value shall be its current retail price. No
- 8 merchandise prize shall be redeemable or convertible into cash.

9 Section 19. [NEW MATERIAL] QUARTERLY REPORTS REQUIRED--

10 ACCOUNTING REQUIREMENTS.--

11 A. On or before April 25, July 25, October 25 and

12 January 25, the game accountant shall file with the board, upon

13 forms prescribed by the board, a duly verified statement

14 covering the preceding calendar quarter showing the amount of

15 the gross receipts derived during that period from games of

16 chance, the name and address of each person to whom has been

17 paid two hundred fifty dollars (\$250) or more and the purpose

18 of the expenditure, the gross receipts derived from each game

19 of chance and the uses to which the net proceeds have been or

20 are to be applied. It is the duty of each licensee to maintain

21 and keep the books and records necessary to substantiate the

22 particulars of each report.

23 B. If a licensee fails to file reports within the

24 time required or if the reports are not properly verified or

25 not fully, accurately and truthfully completed, the licensee is

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1 subject to disciplinary action, including a suspension, until
2 the default has been corrected.

3 C. All money collected or received from the sale of
4 admission, extra regular cards, special game cards, sale of
5 supplies and all other receipts from the games of chance shall
6 be deposited in a bingo and raffle operating account of the
7 licensee that shall contain only such money. All expenses for
8 the game shall be withdrawn from the account by consecutively
9 numbered checks duly signed by specified officers of the
10 licensee and payable to a specific person or organization.
11 There shall be written on the check the nature of the expense
12 for which the check is drawn.

13 D. No check shall be drawn to "cash" or a
14 fictitious payee.

15 E. No portion of any contribution to lawful
16 purposes, after it has been given over to another organization,
17 shall be returned to the donor organization.

18 Section 20. [NEW MATERIAL] EXPENSES--COMPENSATION.--

19 A. No item of expense shall be incurred or paid in
20 connection with the holding, operating or conducting of a game
21 of chance held, operated or conducted pursuant to a bingo
22 license except bona fide expenses in reasonable amounts for
23 goods, wares and merchandise furnished or services rendered
24 reasonably necessary for the holding, operating or conducting
25 of a game of chance.

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1 B. A minimum of ten percent of gross receipts from
2 all games of chance shall be applied exclusively each licence
3 year to the lawful purposes of the organization licensed
4 pursuant to the New Mexico Bingo and Raffle Act to conduct the
5 games. A qualified organization desiring to retain the
6 receipts derived from games of chance in the bingo and raffle
7 operating account and for a period longer than one year shall
8 apply to the board for special permission and, upon good cause
9 shown, the board shall grant the request.

10 Section 21. [NEW MATERIAL] TAX IMPOSITION.--

11 A. A bingo and raffle tax equal to one-half percent
12 of the gross receipts of any game of chance held, operated or
13 conducted for or by a qualified organization shall be imposed
14 on the qualified organization.

15 B. No other state or local gross receipts tax shall
16 apply to a qualified organization's receipts generated by a
17 game of chance authorized by the New Mexico Bingo and Raffle
18 Act.

19 C. The tax imposed pursuant to this section shall
20 be submitted quarterly to the taxation and revenue department
21 on or before April 25, July 25, October 25 and January 25.

22 D. The taxation and revenue department shall
23 administer the tax imposed in this section pursuant to the Tax
24 Administration Act.

25 Section 22. [NEW MATERIAL] VIOLATION OF ACT.--

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1 A. Unless exempted pursuant to Section 26 of the
2 New Mexico Bingo and Raffle Act, it is a violation of that act
3 for a qualified organization to hold a game of bingo or
4 pull-tabs for profit or gain in any manner unless the person
5 has been issued a bingo license by the board and has been
6 authorized by the board to hold the game of chance.

7 B. It is a violation of the New Mexico Bingo and
8 Raffle Act for a person who does not manufacture, fabricate,
9 assemble, produce, program or make modifications to equipment
10 to provide equipment to a qualified organization for use or
11 play of games of chance in New Mexico unless the person has
12 been issued a distributor's license pursuant to that act.

13 C. It is a violation of the New Mexico Bingo and
14 Raffle Act for a person to manufacture, fabricate, assemble,
15 produce, program or make modifications to equipment for use or
16 play of games of chance in New Mexico or for sale or
17 distribution outside of New Mexico unless the person has been
18 issued a manufacturer's license pursuant to that act.

19 D. It is a violation of the New Mexico Bingo and
20 Raffle Act for a person to lease or rent premises for a fee to
21 a licensee for the primary purpose of conducting a game of
22 bingo or pull-tabs unless the person has been issued a
23 commercial lessor's license pursuant to that act.

24 E. It is a violation of the New Mexico Bingo and
25 Raffle Act for a person to act as a bingo manager, a bingo

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1 caller or any other bingo employee position for which the
2 board, by rule, requires a permit unless the person has been
3 issued a permit pursuant to that act.

4 Section 23. [NEW MATERIAL] ENFORCEMENT HEARINGS.--

5 A. The board shall make appropriate investigations
6 to:

7 (1) determine whether there has been any
8 violation of the New Mexico Bingo and Raffle Act or of any
9 regulations adopted pursuant to that act;

10 (2) determine any facts, conditions, practices
11 or matters that it deems necessary or proper to aid in the
12 enforcement of the New Mexico Bingo and Raffle Act or
13 regulations adopted pursuant to that act; or

14 (3) aid in adopting regulations.

15 B. If after an investigation the board is satisfied
16 that a license or permit issued pursuant to the New Mexico
17 Bingo and Raffle Act or prior approval by the board of any
18 transaction for which approval was required by the provisions
19 of the New Mexico Bingo and Raffle Act should be limited,
20 conditioned, suspended or revoked, or that a fine should be
21 levied, the board shall initiate a hearing by filing a
22 complaint and transmitting a copy of it to the licensee or
23 permittee, together with a summary of evidence in its
24 possession bearing on the matter and the transcript of
25 testimony at any investigative hearing conducted by or on

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1 behalf of the board. The complaint shall be a written
2 statement of charges that sets forth in ordinary and concise
3 language the acts or omissions with which the respondent is
4 charged. It shall specify the statutes or regulations that the
5 respondent is alleged to have violated but shall not consist
6 merely of charges raised in the language of the statutes or
7 regulations. The summary of the evidence shall be confidential
8 and made available only to the respondent until such time as it
9 is offered into evidence at any public hearing on the matter.

10 C. The respondent shall file an answer within
11 thirty days after service of the complaint.

12 D. Upon filing the complaint, the board shall
13 appoint a hearing examiner to conduct further proceedings.

14 E. The hearing examiner shall conduct proceedings
15 in accordance with the New Mexico Bingo and Raffle Act and the
16 regulations adopted by the board. At the conclusion of the
17 proceedings, the hearing examiner may recommend that the board
18 take any appropriate action, including revocation, suspension,
19 limitation or conditioning of a license or permit issued
20 pursuant to the New Mexico Bongo and Raffle Act or the
21 imposition of a fine not to exceed one thousand dollars
22 (\$1,000) for each violation or any combination of the foregoing
23 actions.

24 F. The hearing examiner shall prepare a written
25 decision containing the hearing examiner's recommendation to

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1 the board and shall serve it on all parties.

2 G. The board shall by a majority vote accept,
3 reject or modify the recommendation.

4 H. If the board limits, conditions, suspends or
5 revokes any license or permit issued pursuant to the New Mexico
6 Bingo and Raffle Act or limits, conditions, suspends or revokes
7 any prior approval or imposes any fine, it shall issue a
8 written order specifying its action.

9 I. The board's order is effective on the date
10 issued and continues in effect unless reversed upon judicial
11 review, except that the board may stay its order pending a
12 rehearing or judicial review upon such terms and conditions as
13 it deems proper.

14 Section 24. [NEW MATERIAL] APPEALS.--

15 A. The decision of the board in denying, suspending
16 or revoking any license or permit issued pursuant to the New
17 Mexico Bingo and Raffle Act or imposing any fine shall be
18 subject to review. A licensee or permittee aggrieved by a
19 decision of the board may appeal to the district court pursuant
20 to the provisions of Section 39-3-1.1 NMSA 1978.

21 B. No proceeding to vacate, reverse or modify any
22 final order rendered by the board shall operate to stay the
23 execution or effect of any final order unless the district
24 court, on application and three days' notice to the board,
25 allows the stay. In the event a stay is ordered, the

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1 petitioner shall be required to execute the petitioner's bond
2 in a sum the court may prescribe, with sufficient surety to be
3 approved by the judge or clerk of the court, which bond shall
4 be conditioned upon the faithful performance by the petitioner
5 of the petitioner's obligation as a licensee or permittee and
6 upon the prompt payment of all damages arising from or caused
7 by the delay in the taking effect or enforcement of the order
8 complained of and for all costs that may be assessed or
9 required to be paid in connection with the proceedings.

10 Section 25. [NEW MATERIAL] DUTY TO ENFORCE ACT--CRIMINAL
11 PENALTIES.--

12 A. It is the duty of all law enforcement officers
13 to enforce the provisions of the New Mexico Bingo and Raffle
14 Act. It is the duty of the district attorney of the county in
15 which a violation is committed to prosecute such violation of
16 that act in the manner and form as is now provided by law for
17 the prosecutions of crimes and misdemeanors.

18 B. A licensee, a permittee or an officer, agent or
19 employee of a licensee or any other person who willfully
20 violates or who procures, aids or abets in the willful
21 violation of the New Mexico Bingo and Raffle Act is guilty of a
22 misdemeanor and, upon conviction thereof, shall be punished by
23 a fine of not more than one thousand dollars (\$1,000) or by
24 imprisonment in the county jail for not more than six months,
25 or by both such fine and imprisonment.

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1 Section 26. ~~[NEW MATERIAL]~~ EXEMPTIONS.--

2 A. Except as provided in Subsection B of this
3 section, nothing in the New Mexico Bingo and Raffle Act shall
4 be construed to apply to:

5 (1) a drawing or a prize at a fair or fiesta
6 held in New Mexico under the sponsorship or authority of the
7 state or any of its political subdivisions, or for the benefit
8 of a religious organization situated in this state or for
9 charitable purposes when all the proceeds of the sale or
10 drawing shall be expended within New Mexico for the benefit of
11 that political subdivision, religious organization or
12 charitable purpose; or

13 (2) a bingo or a raffle held by a qualified
14 organization that holds no more than one bingo occasion or one
15 raffle in any three consecutive calendar months and not
16 exceeding four occasions in one calendar year.

17 B. Notwithstanding the provisions of Subsection A
18 of this section, no raffle with an individual prize exceeding
19 seventy-five thousand dollars (\$75,000) shall be held without a
20 ten-day prior notification to the board of the conduct of the
21 event and a subsequent notification to the board of the names,
22 addresses and phone numbers of all prize winners.

23 C. Nothing in the New Mexico Bingo and Raffle Act
24 shall be construed to apply to a lottery established and
25 operated pursuant to the New Mexico Lottery Act or gaming that

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1 is licensed and operated pursuant to the Gaming Control Act.

2 Section 27. Section 30-19-6 NMSA 1978 (being Laws 1963,
3 Chapter 303, Section 19-6, as amended) is amended to read:

4 "30-19-6. PERMISSIVE LOTTERY.--

5 ~~[A. Nothing in Article 19 Chapter 30 NMSA 1978~~
6 ~~shall be construed to apply to any sale or drawing of any prize~~
7 ~~at any fair held in this state for the benefit of any church,~~
8 ~~public library or religious society situate or being in this~~
9 ~~state, or for charitable purposes when all the proceeds of such~~
10 ~~fair shall be expended in this state for the benefit of such~~
11 ~~church, public library, religious society or charitable~~
12 ~~purposes.~~

13 ~~A lottery shall be operated for the benefit of the~~
14 ~~organization or charitable purpose only when the entire~~
15 ~~proceeds of the lottery go to the organization or charitable~~
16 ~~purpose and no part of such proceeds go to any individual~~
17 ~~member or employee thereof.~~

18 ~~B.]~~ A. Nothing in Chapter 30, Article 19 [~~Chapter~~
19 ~~30]~~ NMSA 1978 shall be held to prohibit any bona fide motion
20 picture theater from offering prizes of cash or merchandise for
21 advertising purposes, in connection with such business or for
22 the purpose of stimulating business, whether or not any
23 consideration other than a monetary consideration in excess of
24 the regular price of admission is exacted for participation in
25 drawings for prizes.

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1 ~~[G. Nothing in Article 19 Chapter 30 NMSA 1978~~
2 ~~shall be held to apply to any bona fide county fair, including~~
3 ~~fairs for more than one county, which shall have been held~~
4 ~~annually at the same location for at least two years and which~~
5 ~~shall offer prizes of livestock or poultry in connection with~~
6 ~~such fair when the proceeds of such drawings shall be used for~~
7 ~~the benefit of said fair.~~

8 ~~D. Nothing in Article 19 Chapter 30 NMSA 1978 shall~~
9 ~~be construed to apply to any lottery operated by an~~
10 ~~organization exempt from the state income tax pursuant to~~
11 ~~Subsection C of Section 7-2-4 NMSA 1978 and not subject to the~~
12 ~~provisions of Subsection A of this section; provided that:~~

13 ~~(1) no more than two lotteries shall be~~
14 ~~operated in any year by such an organization;~~

15 ~~(2) all the gross proceeds less the reasonable~~
16 ~~cost of prizes of any lottery operated by such an organization~~
17 ~~shall be expended in the state for the benefit of the~~
18 ~~organization or public purposes; and~~

19 ~~(3) no part of the proceeds of any lottery~~
20 ~~shall go to any individual member or employee of any~~
21 ~~organization except as payment for the purchase of prizes at no~~
22 ~~more than the reasonable retail price.]~~

23 B. Nothing in Chapter 30, Article 19 NMSA 1978
24 shall be construed to apply to any activity:

25 (1) regulated by the New Mexico Bingo and

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1 Raffle Act; or

2 (2) specifically exempted from regulation by
3 the provisions of the New Mexico Bingo and Raffle Act."

4 Section 28. Section 60-2E-7 NMSA 1978 (being Laws 1997,
5 Chapter 190, Section 9, as amended) is amended to read:

6 "60-2E-7. BOARD'S POWERS AND DUTIES.--

7 A. The board shall implement the state's policy on
8 gaming consistent with the provisions of the Gaming Control Act
9 and the New Mexico Bingo and Raffle Act. It has the duty to
10 fulfill all responsibilities assigned to it pursuant to those
11 acts, and it has all authority necessary to carry out those
12 responsibilities. It may delegate authority to the executive
13 director, but it retains accountability. The board is an
14 adjunct agency.

15 B. The board shall:

16 (1) employ the executive director;

17 (2) make the final decision on issuance,
18 denial, suspension and revocation of all licenses pursuant to
19 and consistent with the provisions of the Gaming Control Act
20 and the New Mexico Bingo and Raffle Act;

21 (3) develop, adopt and promulgate all
22 regulations necessary to implement and administer the
23 provisions of the Gaming Control Act and the New Mexico Bingo
24 and Raffle Act;

25 (4) conduct itself, or employ a hearing

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1 officer to conduct, all hearings required by the provisions of
2 the Gaming Control Act and other hearings it deems appropriate
3 to fulfill its responsibilities;

4 (5) meet at least once each month; and

5 (6) prepare and submit an annual report in
6 December of each year to the governor and the legislature,
7 covering activities of the board in the most recently completed
8 fiscal year, a summary of gaming activities in the state and
9 any recommended changes in or additions to the laws relating to
10 gaming in the state.

11 C. The board may:

12 (1) impose civil fines not to exceed
13 twenty-five thousand dollars (\$25,000) for the first violation
14 and fifty thousand dollars (\$50,000) for subsequent violations
15 of any prohibitory provision of the Gaming Control Act or any
16 prohibitory provision of a regulation adopted pursuant to that
17 act;

18 (2) conduct investigations;

19 (3) subpoena persons and documents to compel
20 access to or the production of documents and records, including
21 books and memoranda, in the custody or control of a licensee;

22 (4) compel the appearance of employees of a
23 licensee or persons for the purpose of ascertaining compliance
24 with provisions of the Gaming Control Act or a regulation
25 adopted pursuant to its provisions;

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1 (5) administer oaths and take depositions to
2 the same extent and subject to the same limitations as would
3 apply if the deposition were pursuant to discovery rules in a
4 civil action in the district court;

5 (6) sue and be sued subject to the limitations
6 of the Tort Claims Act;

7 (7) contract for the provision of goods and
8 services necessary to carry out its responsibilities;

9 (8) conduct audits, relevant to their gaming
10 activities, of applicants, licensees and persons affiliated
11 with licensees;

12 (9) inspect, examine, photocopy and audit all
13 documents and records of an applicant or licensee relevant to
14 the applicant's or licensee's gaming activities in the presence
15 of the applicant or licensee or the applicant's or licensee's
16 agent;

17 (10) require verification of income and all
18 other matters pertinent to the gaming activities of an
19 applicant or licensee affecting the enforcement of any
20 provision of the Gaming Control Act;

21 (11) inspect all places where gaming
22 activities are conducted and inspect all property connected
23 with gaming in those places;

24 (12) summarily seize, remove and impound from
25 places inspected any gaming devices, property connected with

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1 gaming, documents or records for the purpose of examination or
2 inspection;

3 (13) inspect, examine, photocopy and audit
4 documents and records, relevant to the affiliate's gaming
5 activities, of an affiliate of an applicant or licensee that
6 the board knows or reasonably suspects is involved in the
7 financing, operation or management of the applicant or
8 licensee. The inspection, examination, photocopying and audit
9 shall be in the presence of a representative of the affiliate
10 or its agent when practicable;

11 (14) conduct background investigations
12 pursuant to the Horse Racing Act; and

13 (15) except for the powers specified in
14 Paragraphs (1) and (4) of this subsection, carry out all or
15 part of the foregoing powers and activities through the
16 executive director.

17 D. The board shall monitor all activity authorized
18 in an Indian gaming compact between the state and an Indian
19 nation, tribe or pueblo. The board shall appoint the state
20 gaming representative for the purposes of the compact."

21 Section 29. TEMPORARY PROVISION--EXISTING LICENSEES,
22 OBLIGATIONS, VIOLATIONS AND PROSECUTIONS.--

23 A. On the effective date of this act, a licensee
24 under the Bingo and Raffle Act shall, for all purposes, be
25 considered to be a licensee under the New Mexico Bingo and

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1 Raffle Act until the term of the license expires, at which time
2 the license may be renewed under the New Mexico Bingo and
3 Raffle Act.

4 B. Any taxes, fines, civil penalties or other
5 obligations owed under the Bingo and Raffle Act on the
6 effective date of this act shall be owed and enforceable under
7 the New Mexico Bingo and Raffle Act.

8 C. Notwithstanding the repeal of the Bingo and
9 Raffle Act, any violation of that act prior to its repeal may
10 be investigated and prosecuted pursuant to the provisions of
11 that act unless otherwise prohibited by law.

12 Section 30. REPEAL.--Sections 60-2B-1 through 60-2B-14
13 NMSA 1978 (being Laws 1981, Chapter 259, Sections 1 through 9,
14 Laws 2005, Chapter 349, Section 4 and Laws 1981, Chapter 259,
15 Sections 10 through 14, as amended) are repealed.

16 Section 31. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2009.